

# MEMORANDUM

June 22, 2004

TO: THE LOS ANGELES COUNTY CLAIMS BOARD

FROM: KENNETH A. MARANGA, ESQ.  
Maranga Morgenstern

OWEN L. GALLAGHER  
Principal Deputy County Counsel  
General Litigation Division

RE: Minerva Espinoza v. County of Los Angeles  
Los Angeles Superior Court Case No. PC032081

DATE OF  
INCIDENT: July 19, 2002

AUTHORITY  
REQUESTED: \$180,000, Plus Assumption of the Medi-Cal Lien Not to Exceed \$764.10

COUNTY  
DEPARTMENT: DEPARTMENT OF HEALTH SERVICES

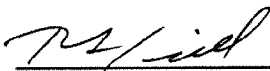
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## CLAIMS BOARD ACTION:

☐ Approve

☐ Disapprove

☒ Recommend to Board of  
Supervisors for Approval

  
\_\_\_\_\_, Chief Administrative Office  
**ROCKY ARMFIELD**

  
\_\_\_\_\_, County Counsel  
**JOHN F. KRATTLI**

  
\_\_\_\_\_, Auditor-Controller  
**MARIA M. OMS**

on July 19, 2004

## SUMMARY

This is a recommendation to settle for \$180,000, the medical negligence lawsuit brought by Minerva Espinoza as the result of treatment she received at Olive View/UCLA Medical Center on July 19, 2002. The State, having paid \$764.10 for the provision of Medi-Cal care, has a claim for reimbursement, which will be settled by the County.

## LEGAL PRINCIPLES

The County is liable for the failure of its hospital and medical staff to provide services consistent with the appropriate standard of care for the circumstances encountered.

## SUMMARY OF FACTS

On July 19, 2002, at 8:15 a.m., Minerva Espinoza, a 48-year-old woman, underwent cosmetic surgery at Olive View/UCLA Medical Center to remove unwanted excess tissue from the upper portion of both arms (bilateral brachioplasty). Surgery was concluded at 10:00 a.m.

At 11:05 a.m., Ms. Espinoza complained of tingling and reduced sensation in the little finger of her right hand. However, medical personnel did not perform a neurologic examination to determine if the tingling and reduced sensation in the little finger was due to an injury to a nerve innervating the arm occurring as a result of the brachioplasty procedure.

At 2:20 p.m., Ms. Espinoza complained of a lack of strength in her right arm and her left arm. However, medical personnel did not perform a neurologic examination to determine if the loss of strength in the right arm was due to an injury to a nerve occurring as a result of the brachioplasty procedure. At 2:40 p.m., Ms. Espinoza was discharged.

On July 20, 2002, at 6:30 p.m., Ms. Espinoza was seen in the Emergency Room at Olive View/UCLA Medical Center with complaints of worsening sensory and motor deficits in her right arm and hand. Medical personnel suspected that Ms. Espinoza was suffering from a possible paralysis of the large nerve innervating the arm and hand (ulnar nerve palsy). Ms. Espinoza was discharged, with instructions to return to the Plastic Surgery Clinic on July 23, 2002.

On July 23, 2002, Minerva Espinoza was seen in the Plastic Surgery Clinic at Olive View/UCLA Medical Center. She was discharged, with instructions to return on July 25, 2002, for exploratory surgery to determine the cause of the worsening sensory and motor deficits in her right arm and hand.

On July 25, 2002, Minerva Espinoza underwent exploratory surgery at Olive View/UCLA Medical Center to determine the cause of the worsening sensory and motor deficits in her right arm and hand. During surgery, medical personnel determined that a large collection of escaped blood (hematoma) was compressing the ulnar nerve. The hematoma was removed, and Ms. Espinoza was discharged.

Ms. Espinoza underwent a regimen of physical therapy. However, the damage to her ulnar nerve failed to improve. She currently suffers from a claw deformity of her right hand, which restricts her ability to perform daily tasks.

### DAMAGES

If this matter proceeds to trial, the claimant will likely seek the following:

Minerva Espinoza,	
Future Medical Care	\$ 60,000
Pain and Suffering (MICRA limit)	<u>\$250,000</u>
TOTAL	\$310,000

The proposed settlement includes:

Minerva Espinoza,	
Cash Settlement	\$144,350
Attorneys Fees (MICRA Estimate)	\$ 53,650
Costs of Litigation	<u>\$ 12,000</u>
TOTAL	\$180,000

### STATUS OF CASE

The current trial date has been vacated pending approval of this settlement.

Expenses incurred by the County of Los Angeles in the defense of this case through June 18, 2004, are attorneys fees of \$40,237.38 and \$10,040 in costs.

The total cost to the County of Los Angeles, as a result of this settlement is as follows:

Indemnity (Settlement Amount)	\$180,000.00
County Attorneys Fees and Costs	\$ 50,277.38
Medi-Cal Lien	<u>\$ 764.10</u>
TOTAL	\$231,041.48

## EVALUATION

Medical experts will be critical of the failure of medical personnel to perform a neurologic examination of Minerva Espinoza's right arm prior to her discharge on July 19, 2002. The failure to perform a neurologic examination with evidence of tingling, reduced sensation, and reduced strength in the right arm and hand fell below the standard of care, resulted in a missed opportunity to diagnose and treat the hematoma compressing Minerva Espinoza's ulnar nerve, and is directly responsible for the results observed here.

We join with our private counsel, Maranga, Morgenstern, and our claims administrator, Octagon Risk Services, Inc., in recommending settlement in the amount of \$180,000, and payment of the Medi-Cal lien in the amount of \$764.10.

The Department of Health Services concurs in this settlement.